



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5778-99

13 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 28 November 1979 at the age of 18. Approximately eight months later, on 17 July 1980, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and being incapacitated for duty due to alcohol indulgence. The punishment imposed was restriction and extra duty for seven days and a forfeiture of pay. On 18 November 1980 you received NJP for assault and were awarded correctional custody for seven days and a forfeiture of pay. You received your third NJP on 23 July 1981 for disobedience.

Your record reflects that on 13 January and again on 8 February 1982 you received NJP. The offenses were driving under the influence of alcohol (DUI), disrespect, and destruction of government property. On 14 September 1982 you were convicted by civil authorities of DUI and were sentenced to six months confinement, which was suspended. You were also required to surrender your driver's license and to attend a mental health clinic. Three months later, on 16 December 1982, you were convicted by summary court-martial (SCM) of disrespect and

assault. You were sentenced to confinement at hard labor for 30 days, forfeitures of pay and reduction to paygrade E-1.

Your record further reflects that on 23 May 1983 you were again convicted by civil authorities of DUI and of driving on a revoked license. You were sentenced to probation.

Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. Your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 24 June 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like your discharge upgraded and to be financially compensated for your military uniforms. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. The Board has no authority to reimburse you for the cost of your uniforms. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director